Supreme Court, U.S.
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No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez, Esq.,

Petitioner,

v.

Editor in Chief, *Legal Times*, Individually and in his corporate capacity, *et al.*,

Respondents.

On Petition For Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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PETITION FOR WRIT OF CERTIORARI

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The evidence confirms that the US Department of Justice, the Federal Courts in the DC Circuit, the Attorney General and Supreme Court of Virginia, the Virginia State Bar Disciplinary Board ("VSBDB"), the DC Committee on Admissions ("Committee"), and Lobbyist/Attorneys in DC, have criminally conspired to injure Isidoro Rodriguez, Esq. ("Rodriguez"), by depriving him of employment in DC and federal unemployment compensation benefits in retaliation for his lawfully petitioning Congress and filing a civil RICO action based on the obstruction of his Federal statutory rights as a parent in violation of 18 U.S.C. § 1204. The linchpin of the conspiracy was for the VSBDB to revoke Rodriguez's license to practice law. But, the VSBDB is without judicial authority under the laws of Virginia, and their order is *void* as issued by a ***kangaroo court.***[1] Despite this the Federal lower courts dismissed the RICO suit based on absolute judicial and ministerial immunity from accountability for the criminal acts of enforcing the VSBDB *void* order in violation of 18 U.S.C. §§ 241, 242, 1513, and 3771, and for lack of venue of the federal action in D.C.

QUESTION PRESENTED FOR REVIEW

I. Whether The Lower Courts Erred In Declaring Absolute Judicial and Ministerial Immunity for the Criminal Conspiracy to Enforce *Void* Orders?

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[1] "*Kangaroo court.*" . . . 2. A. Court or tribunal characterized by **unauthorized or irregular procedures**, esp. so as to render a fair proceeding impossible. 3. **A sham legal proceeding**. . . ." Bryan A. Garner, Black's Law Dictionary, at page 382 (8th ed., 1999). Emphasis added.

II. Whether the *Void* Order Doctrine Prohibits The Lower Courts From Proclaiming Absolute Judicial and Ministerial Immunity From Liability for a RICO Cause of Action?

III. Whether the Lower Courts Erred in Declaring Absolute Judicial and Ministerial Immunity under both the Federal Tort Claims Act and Virginia Tort Claims Act?

IV. Whether the Lower Courts Erred in violating Rights under RICO and the Rule Enabling Act by Depriving Rodriguez of a Jury Trial to Determine Malfeasance Based on the Evidence?

V. Whether the Lower Court Erred in Holding that Venue Was Not Present in the District of Columbia Despite the Criminal Acts of Eric Holder *et al.*, and the Committee?

Parties to the Proceedings

The caption of the case does not contain the name of all of the parties, who include: the Editors-in-Chief of *The Washington Post*; the Circuit Justice for the Fourth and DC Circuits Chief Justice John G. Roberts; The Supreme Court of Virginia; Virginia Justice Leroy Rountree Hassell, Sr.; the Virginia State Bar; Karen Ann Gould, President of the Virginia State Bar; Noel D. Sengel, Virginia State Bar Senior Assistant Bar Counsel; Virginia State Bar disciplinary officials James Leroy Banks, Jr., William Carlyle Boyce, Jr., William Ethan Glover, Glenn M. Hodge, Stephen A. Wannall, Davis J. Gogal, Daniel M.

Rathbun, Edward V. O'Connor, Jr., and John W. di Zerega; the Attorney General of the Commonwealth of Virginia; Assistant Attorney General Catherine Crooks Hill; the Court of Appeals of Virginia; the Fairfax County Circuit Court; the Fairfax County J & D District Court; Virginia Judge Thomas Mann; Federal judges Richard W. Roberts, Jane A. Restani, Paul R. Michel, William H. Stafford, Jr., and T.S. Ellis III; U.S. Department of Justice; Director, Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs of the U.S. Department of Justice; Office of the Solicitor General; U.S. Attorney General Alberto Gonzales; Paul McNulty, U.S. Attorney for the Eastern District of Virginia; Offices of the U.S. Attorneys for the Eastern District of Virginia and the District of Columbia; Marina Utgoff Braswell, U.S. Attorney's Office for the District of Columbia; Federal Bureau of Investigation; U.S. Department of State; U.S. Secretary of State Condoleezza Rice; Legal Advisor for Consular Affairs of the U.S. Department of State; Director, Office of Children Issues of the Bureau of Consular Affairs of the U.S. Department of State; Supreme Court of the United States; U.S. Courts of Appeals for the District of Columbia Circuit and the Fourth Circuit; U.S. District Courts for the District of Columbia and the Eastern District of Virginia; National Center for Missing and Exploited Children (NCMEC); Board of Directors of NCMEC; NCMEC officials Ernie Allen and Nancy Hammer; Proskauer Rose LLP and Susan Brinkerhoff; Miles & Stockbridge LLP & Stephen J. Cullen; Patrick H. Stiehm; Covington and Burling, Eric H. Holder, Jr., and D. Jean Veta; Committee on Admissions, District of Columbia Court of Appeals; and John Does 1-20.

Petitioner is not a corporation.

Respondents are entities of the Federal, Commonwealth Virginia, and the District of Columbia governments, their employees, their private contractors acting as instrumentalities of government, and their private law firms acting as attorney/lobbyists, and media companies located in Washington, D.C. and Virginia.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING ii

TABLE OF CONTENTS v

TABLE OF AUTHORITIES viii

CITATIONS TO OPINIONS BELOW 1

STATEMENT OF JURISDICTION 1

THE CONSTITUTION, FEDERAL STATUTES AND VIRGINIA CODE INVOLVED 1

STATEMENT OF THE CASE 1

REASONS FOR GRANTING THE WRIT OF CERTIORARI 7

I. THERE IS NO ABSOLUTE JUDICIAL AND MINISTERIAL IMMUNITY FROM SUIT FOR A CRIMINAL CONSPIRACY TO ISSUE AND ENFORCE *VOID* ORDERS. 8

i. Violation of Oath of Office is Treason.. . . 11

ii. Judges and Attorneys Have No Judicial and Ministerial Immunity For Treason. 14

iii. No Immunity For A Criminal Enterprise 16

II. THERE IS NO JUDICIAL AND MINISTERIAL IMMUNITY FROM ACCOUNTABILITY BECAUSE THE COMMITTEE ACTIONS AND THE VSBDB ORDERS ARE *VOID* AS OUTSIDE OF THEIR AUTHORITY AND IN FURTHERANCE OF A CRIMINAL CONSPIRACY WITH THE GOVERNMENT. 18

a. *The Virginia State Bar's order is void because it has no judicial authority and is not a Court.* . . . 20

b. *The Virginia State Bar order is void because it violated the prohibition against the bar taking action against an attorney for litigating to enforce his statutory rights.* 23

c. *The Committee on has no authority under Rule 46 to conspire with the VSBDB to shelve for two years Rodriguez's application and then deny a him a hearing based on the VSBDB void order.* 24

III. THERE IS NO JUDICIAL IMMUNITY UNDER THE VIRGINIA TORT CLAIMS ACT, FEDERAL TORT CLAIMS ACT, AND RICO 26

IV. THE DENIAL OF A JURY TRIAL IS A VIOLATION OF RIGHTS UNDER RICO AND THE RULE ENABLING ACT. 32

V. VENUE IS PRESENT IN THE DISTRICT OF COLUMBIA BASED ON THE EVIDENCE THAT THE CRIMINAL ENTERPRISE WAS

INITIATED THERE BY THE FEDERAL GOVERNMENT 34

CONCLUSION 37

Addendum ..... a-h[1]

Separate Appendix A-1 to A-70[2]

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[1]"Add-" references are to pages in the attach Addendum.

[2]"A-" references are to pages in the separate vol. Appendix.

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Board of Regents of States Colleges v. Roth, 408 U.S. 564,573 (1972) 20

Bracey v. Gramley, 520 U.S. 899, 117 S.Ct. 1793 (1997) 31

Canter v. Cohen, 442 F.3d 196 (4th Cir 2006) 37

Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821) 6

Conley v. Gibson, 355 U.S. 41 (1957) 29

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958). 32, 33, 35

D.C. Court of Appeals v. Feldman, 413 U.S. 462 (1983) 29

Den Zeller v. Rankin, 101 S.Ct. 2020 (1981) 14

Elliot v. Pearsall, 1 Pet. 328, 26 U.S. 328 (1828) .. 26

Ferry Co. v. Commonwealth, 196 Va. 428, 432, 83 S.E.2d 782, 784 (1954) 20, 25

Fisher's Case, 6 Leigh (33 Va.) 619 ..... 21, 22

In re Anthony E. Ramos, 860A.2d 843, 845 (D.C. 2004) 24

In re Sawyer, 124 U.S. 200 (1888) 14

James Bagg's Case (1616) 77 Eng. Rep. 1271 (K.B.) 9

Jordon v. Gilligan, 500 F.2d 701 (6th Cir. 1974) 18

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Marbury v Madison, 1 Cranch 137, 163 (1803) . . . 33

Martinez, et al. v. Lamagno and DEA, 515 U.S. 417 (1995) 15

Morrison v. Bestler, 239 Va. 166, 387 S.E.2d 753 (1990) 19

Norfolk Bar Ass'n v. Drewry, 161Va. 833, 172 S.E. 282 (1934) 6, 20, 28

Nguyen v. United States, 539 U.S. 69 (2003) 19

Olmstad v. United States, 277 U.S. 438 (1928). 17, 30

Paul v. Davis, 424 U.S. 693 (1976). 8

Pennoyer v. Neff, 95 US 714 (1877) 18, 19

People v. Gorindar, 350 Ill. 256, 182 N.E. 732 ... 22

R. V. Gaskin, (1799) 1001 Eng. Rep. 1349 (K.B.) .. 9

Rankin v. Howard 633 F.2d 844 (1980) 14, 27

Rooker v. Fid. Trust Co., 263 U.S. 413 (1923) 29

Simler v. Conner, 372 U.S. 221, 83 S.Ct. 609, 9 L.Ed2d 691 34

Smith v. United States, 234 F.2d 385 (5th Cir. 1956) 16

Stump v. Sparkman, 435 U.S. 349 (1978) 9, 26

Swistock v. Jones, 884 F.2d 755, 758 (3d Cir. 1989) 31

Turner v. Houseman, 2008 WL 647526, 2008 U.S. App. LEXIS 5127, slip op. At 3 (10th Cir. (Okla.) March 10, 2008)(No.07-6108, unpublished) 17

U.S. v. Murphy, 768F.2d 1518 (7th Cir. 1985) 11

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United States v. Alo, 439 F.2d 751 (2d Cir.), cert. denied, 404 U.S. 850 (1971) 17

United States v. Claiborne, 727 F.2d. 842 (9th Cir. 1984) 11

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United States v. Hasting, 681 F.2d 706 (11th Cir. 1982) 11

United States v. Isaacs, 493 F. 2d 1124 (7th Cir. 1974) 17

United States v. Isaccs, 493 F.2d 1124 (7th Cir. 1974) 11

United States v. Lee, 106 U.S. 196 (1882) 14

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United States v. Testan, 424 U.S. 392 (1976) 27

Viqueria v. First Bank, 140 F.3d 12, 16 (1st Cir. 1998) 6, 20, 28, 31

Whisman v. Rinehart, 119 F.3d 1303 (8th Cir. 1997) 31

Wise v. Withers, 7 U.S. (3 Cranch) 331 (1806) . . . 10

Yick Wo v. Hopkins, 118 US 356 (1886) 25

U.S. Constitution:

The Fifth Amendment to the Constitution . 2, 16, 24

The Fourteenth Amendment 18, 24

Federal Statute:

18 U.S.C. § 1204 16

RICO 16

18 U.S.C. § 1513 ..... 2, 16, 24

18 U.S.C. § 1961(1) 2, 16, 24

28 U.S.C. §455 16

28 U.S.C. § 1257(a) 2, 16, 24

CITATIONS TO OPINIONS BELOW

The unpublished judgement and orders of the Special Designated Panel for the United States Court of Appeals for the District of Columbia appointed by Defendant Chief Justice John g. Roberts ("Special Panel"), whose review is sought denying motion to disqualify and dismissing the RICO complaint based on absolute judicial and ministerial immunity even for criminal acts and for lack of venue in the District of Columbia are reproduced at A-1 to A-24.

The unpublished order and decision of the District Court are reproduced at A-25 to A-34

The unpublished *void* judgment of the Supreme Court of Virginia affirming the published *void* decision of the VSBDB are reproduced at A-35 and A-38.

STATEMENT OF JURISDICTION

The unpublished judgement of the Special Designated Panel was entered on July 2, 2008. The jurisdiction of this Court is invoked pursuant 28 U.S.C. §§1254(1) and 2072.

THE ATTACHED ADDENDUM CONTAINS THE CONSTITUTION, FEDERAL STATUTES AND VIRGINIA CODE INVOLVED

STATEMENT OF THE CASE

In 2003, the evidence confirms a criminal conspiracy by the United States Department of Justice, its independent contractor the National Center for

Missing and Exploited Children, and the Hon District Court Judge Richard W. Roberts, in violation of 18 U.S.C. § 1204 (Add-a), to obstruct Rodriguez's parental federal statutory right to compel the securing of international visitation with his Son pursuant to Art. 21 of Hague Convention on the Civil Aspects of International Child Abduction, Oct 25, 1980, T.I.A.S. No. 11670, 19 I.L.M 1501 ("the Treaty"), and the Virginia's Uniform Child Custody Jurisdiction and Enforcement Act, Va. Code 20-146.25 ("Va. UCCJEA"), *see Isidoro Rodriguez Esq., and Isidoro Rodriguez-Hazbun v. National Center for Missing & Exploited Children et al,* D.C. No. 03-120 (RWR)("*Rodriguez I*").

Augmenting this criminal act, was a subsequent criminal conspiracy in violation 18 U.S.C. §§ 241, 242, and 1513, and VA Code § 18.2-499 and 500, to injure, stigmatize and damage Rodriguez's business and profession in retaliation for:

(1) his filing *Rodriguez I* to enforce his right as a parent under the Treaty and Va UCCJEA;

(2) his filing in February 2005 criminal complaints for violation of 18 U.S.C. § 1204, with the United States Assistant Attorney General for both the Eastern District of Virginia and the District of Columbia, the Federal Bureau of Investigation, and the United States District Court for the District of Columbia, *see* Complaint filed on May 25, 2007, ¶ 128 (Petitioner's Exhibit 5);

(3) his filing in March 2005 a First Amended Complaint in *Rodriguez I* adding a number of Defend-

ants including than Associate Justice John G. Roberts and adding a count under the 18 U.S.C. ,§ 1961 (and statutes cited therein) through § 1968 of the Racketeer Influence and Corrupt Organizations Act ("RICO") based on the evidence of multiple acts by the Government against Rodriguez for seeking to report criminal acts in violation of 18 U.S.C. § 1204 *see* Complaint filed on May 25, 2007, ¶ 130;

(4) the filing of additional Federal Tort Claims Notice on June 14, 2005, *see* Complaint filed on May 25, 2007, ¶ 128 (Petitioner's Exhibit 7, 8, 9); and,

(5) for filing petitions to Congress for an investigation of the malfeasance based on the evidence of criminal collusion of the Department of Justice with the Federal Courts in the District of Columbia. *See* http://home.earthlink.net/~isidoror/.

In furtherance of the criminal enterprise Mr. Eric Holder, Ms. D. Jean Veta, and Covington & Burling LLP, as well as Susan Brinkerhoff, and Proskauer Rose LLP ("Holder *et al.*"), as lobbyist/attorney's for the National Center for Missing & Exploited Children, an instrumentality of the Federal Government, from within the District of Columbia did contact the Committee to investigate Rodriguez for litigating to compel compliance with my visitation rights under Treaty.

When it was determined that as an active member of various Federal Courts located in the District of Columbia Rodriguez was not violating D.C. Ct. of App. Rule 49, Holder *et al.*, filed from the District

of Columbia a bar complaint in October 2003 with the VSBDB, complaining of his litigating to enforce his federal statutory rights as a parent under Treaty.

The evidence also confirms that Holder *et al.,* conspired with Rodriguez's former client for them to file a bar complaint in January 2004 with the VSBDB for his litigating to enforce his perfected statutory property in his Virginia Attorney's Lien Va. Code § 54.1-3934, to sunken *treasure trove* off the coast of the Republic of Colombia. Also, the evidence confirms that Holder *et al.,* conspire with the Editor-in-Chief of the *Legal Times* to publish a false and misleading news article to stigmatize Rodriguez so the cause of loss of employment in Virginia and the District of Columbia;

On March 31, 2005, in *Rodriguez I* Defendant Judge Richard W. Roberts refused to disqualify himself as required under 28 U.S.C. § 455, dismissed the complaint without discussing the gravamen under the Treaty and VA UCCJEA, and struck the amended RICO complaint without any comment.

In August 2005 Defendant John G. Roberts, acted outside of his judicial capacity and jurisdiction to compound his earlier negligent actions as a member of the Defendant Court of Appeals for the District of Columbia, by submitting false statements to the Senate Judiciary Committee during his confirmation hearing to Chief Justice of the United States Supreme Court by "spinning" the gravamen of Rodriguez's action to secure visitation by a Writ of Mandamus to compel compliance with the Treaty and Va. UCCJEA and RICO lawsuit, as only a suit by a father for "custody." Thus, based on

the evidence of not truthfully advising Congress and committing perjury Rodriguez filed opposition to the confirmation based violation of 18 U.S.C. § 1001.

Despite the United Stats Court of Appeals in 2006, holding in *Canter v. Cohen*, 442 F.3d 196 (4th Cir, March 2006), that the Executive Branch and the Virginia Courts had a duty under the Treaty to secure a parent's international visitation rights, the VSBDB investigated and prosecuted, and illegally conducted a hearing to consider the bar complaints filed by the Government. An order was issued on October 27, 2006, revoking Rodriguez license to practice law in Virginia for his litigating to enforce his Federal and State Statutory Rights A-38). The VSBDB *void* order was affirmed by the Supreme Court of Virginia on June 28, 2007. The U.S. Supreme Court refused to enjoin and review the *void* orders, *Isidoro Rodriguez, Esq. v. Supreme Court of Virginia et al.,* (S. Ct. No. 07-419, November 2, 2007).

Also, in furtherance of the criminal enterprise the Committee conspire with the VSBDB to nether consider Rodriguez's waiver application by shelving it fr two years nor provide a hearing in May 2007 in violation of DC Ct. App. Rule 46(f).

As a result of the Committee's action, Rodriguez was terminated from employment as a contract attorney in the District of Columbia, and this action was filed in May 2007..

On June 18, 2007, Judge Paul L. Friedman violated 18 U.S.C. § 4, § 241, § 242, and § 1513, The

Rules Enabling Act, and Rodriguez's right to a jury trial by surreally granting summary dismissal of *Rodriguez II* based on proclaiming absolute judicial and ministerial immunity even for negligent and criminal acts, and for lack of venue in the District of Columbia even for the federal causes of action based on the criminal acts of Holder *et al.*, Defendants Richard W. Roberts, John G. Roberts, and the Committee, and denied the motion for a Grand Jury and the appointment of a Special Prosecutor. (A-20 and A-25).

In furtherance of the criminal enterprise, the Virginia Employment Commission denied Rodriguez right to federally mandated unemployment compensation benefits based on the *void* order and actions respectively of the VSBDB and the Committee.

In furtherance of the criminal enterprise, in April 2008, in violation of 18 U.S.C. § 241 and § 1513, the VSBDB sought to continue intimidating Rodriguez as a victim of federal crimes by threatening a criminal or civil actions based on the VSBDB *void* order.

On July 2, 2008, the Special Panel denied the motion to disqualify based on being appointed by Defendant Chief Justice John G. Roberts, and dismissed the RICO and other federal counts in the complaint based on absolute judicial and ministerial immunity even for criminal acts and for lack of venue in the District of Columbia (A-1 to A-24).

In violation of the Congressional mandate under 28 U.S.C. §455(a) and (b)(5)(I) and (ii), to assure the impartiality of the Federal Courts, the Chief Justice, as

Circuit Justice for the 4th and D.C. Circuits, not only refused to disqualify himself, but too refused to act on various motions filed pursuant to 18 U.S.C. § 3771, to enjoin the illegal *void* orders.

Also, despite the repeated demands for access to an impartial court since December 2006 for a Show Cause Hearing on Rodriguez right to continued membership to practice before the United States Supreme Court, the U. S. Court of Appeals for the 2nd, 3rd, 4th, DC and Federal Circuits, the U. S. District Court for the E.D. of VA, and US Tax Court, based on the evidence of a criminal conspiracy to enforce the VSBDB *void* order, and requests for the Federal Courts to protect Rodriguez as a victim of an on going federal crime pursuant to 18 U.S.C. § 3771, these courts for almost two years have refused to either protect or grant access to an impartial court.[1] Thus, Rodriguez filed *In re Isidoro Rodriguez* S. Ct. No. 08-339, September 15, 2008, for a Writ of Mandamus to compel the federal courts and DOJ to comply with their oaths and duty.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

An attorney is an officer of the court for life whose office cannot be taken from him, except for cause established by due process of law. Lenard S. Goodman, "The Historic Role of the Oath of Admission," Vol 11, No4 (Oct., 1967), pp. 404-411, Temple University.

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[1]Only recently this Spring, did the 3rd and 4th Circuits respectively this past week on September 23, and 25, 2008, provide a limited Show Cause Hearing.

The Fifth Amendment to the Constitution clearly establish that "where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." *Board of Regents of States Colleges v. Roth,* 408 U.S. 564,573 (1972)(internal quotation marks omitted). "To be deprived not only of present employment but of future opportunity for it certainly is no small injury . . . . ." *Paul v. Davis,* 424 U.S. 693, 704 (1976). This is because, "[i]njustice anywhere is a threat to justice everywhere." Dr. Matin Luther King. Jr.

I. THERE IS NO ABSOLUTE JUDICIAL AND MINISTERIAL IMMUNITY FROM SUIT FOR A CRIMINAL CONSPIRACY TO ISSUE AND ENFORCE *VOID* ORDERS.

In *The Case of the Marshalsea*, 77 Eng. Rep. 1027 (K.B. 1613), Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such proceedings would be ***void***, and actionable,

> [W]hen a Court has (a) jurisdiction of the cause, and proceeds *inverso ordine* or erroneously, there the party who sues, or the officer or minister of the Court who executes the precept or process of the Court, no action lies against them. But (b) when the Court has not jurisdiction of the cause, there the whole proceeding is [before a person who is not a judge], and actions will lie against them without any regard of the precept or process . . . *Id.* 77

Eng. Rep. at 1038-41.

Thus, historically there is no absolute judicial and ministerial immunity for acts outside of jurisdiction, and an action will lie for the conspiracy to issue and enforce a *void* order as part of an illegal enterprise. In England and the colonies, it was in ordinary courts which determined whether government officers, including judges, with good behavior tenure were to be held accountable in either civil or criminal trials for misbehavior. Prakash and Smith, *How to Remove a Federal Judge*, 116 Yale L. J. 72 at 74 (2006).

Blackstone discussed various English statutes that provided for the making accountable and removal of judges for misbehavior in proceeding. 4 William Blackstone, Commentaries 140 at 141. These were not statutory exception to grants of good-behavior tenure, but consistent with the concept that a judge could be tried in court. *See, e.g. R. V. Gaskin,* (1799) 1001 Eng. Rep. 1349 (K.B.) (reinstating a parish-clerk upon his demand that his employer show cause for firing him); *James Bagg's Case* (1616) 77 Eng. Rep. 1271, 1278-81 (K.B.)(reinstating a burgess for lack of cause to remove him).

Virginia enacted the English rule in Va. Code §8.01-195.3(3) at Add-g, to hold that a judge or government attorney had no immunity from suit for acts outside of his judicial capacity or jurisdiction. *See* Robert Craig Waters,"Liability of Judicial Officers under Section 1983" 79 *Yale L. J.*(December 1969), pp. 326-27 and nn. 29-30). In *Stump v. Sparkman*, 435 U.S. 349 at 360 (1978), the Supreme Court confirmed

that a State judge would be immune from suit only if he did not act outside of his judicial capacity and/or was not performing any act expressly prohibited by statute. *See* Block, *Stump v Sparkman* and the History of Judicial Immunity, 4980 Duke L.J. 879 (1980).

Regarding Federal Judges, the Federalist Paper 78, suggested that to assure judicial independence, the Constitution provided Article III judges life tenure dependent on "good behavior." However, no judicial immunity existed from suit. In fact Article I, § 3, cl. 7, provide for impeachment of judicial officers, and Article II, § 4, provides for the removal of judges after trial and conviction for treason and other high crimes and misdemeanors.

In the Federal Courts, as early as 1806 in *Wise v. Withers*, 7 U.S. (3 Cranch) 331 (1806), it was recognized that there were restrictions on the power of federal judges, as well as the placing on them liability for acts outside of their jurisdiction authorized by statute.

Thus the evidence from England, the colonies, the Constitutions of Virginia, and the Constitutional Congress, the Northwest Ordinance, and the Virginia Assembly's Act all point to the same conclusion: judges and government attorneys are subject to litigation in ordinary courts of law for acts outside of their judicial capacity or jurisdiction.

None of these writings contemplated that the legal profession and a judge was immune from suit, and that impeachment would be the sole means of holding

a judge accountable for malfeasance and misbehavior.

Consistent with this, courts have specifically held that a federal judge is indictable and may be convicted prior to removal from office for criminal acts. *See United States v. Claiborne*, 727 F.2d. 842, 847-48 (9th Cir. 1984); *United States v. Hasting*, 681 F.2d 706, 710-11 (11th Cir. 1982); *United States v. Isaccs*, 493 F.2d 1124, 1142 (7th Cir. 1974).[2]

i. Violation of Oath of Office is Treason.

History reports that Napoleon at his coronation took the imperial crown out of the hands of the Pope and crowned himself King. However, as discussed below neither Federal nor Virginia Judges or government attorneys have that prerogative.

Before an attorney's name is entered upon the roll all attorney must take an oath to "support the constitution of the United States and the constitution of the state of _____, and that I will faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability."

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[2]This Court recently recognized that judicial corruption through a criminal conspiracy can exist, and the judges will be held liable, *see Bracey v. Gramley*, 520 U.S. 899, 117 S.Ct. 1793, 1797 (1997). The Seventh Circuit Court of Appeals held that the Circuit Court of Cook County, Chicago, Illinois is a criminal enterprise. *U.S. v. Murphy*, 768F.2d 1518, 1531 (7th Cir. 1985); *See United States v. Maloney*, 71 F.3d 645 (CA7 1995), cert. Denied, 519 U.S. ___ (1996); *see generally* J. Tuohy & R. Warden, "Greylord – Justice, Chicago Style (1989).

Also all judges must take a second oath of office before entering upon the duties of their office to "solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the State of _____, and that I will faithfully discharge the duties of judge of _____ court, according to the best of my ability."

Further, if the judge or attorney had enlisted in the U.S. military, as then he/she has subscribed to a lifetime oath, under Title 10 U.S.C. Section 502, to in pertinent part, as follows:

> "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; ...".

The Supreme Court of the United States has stated that: "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.". *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958).

The language of Chief Justice Marshall in *Cohens v. Virginia*, 6 Wheat, 264, 404 (1816), is most apposite, when he stated that the courts:

> **. . . have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would**

be treason to the Constitution.[3] (Emphasis added)

Thus, based on taking at least two, if not three, oaths of office to support the Constitution of the United States, any judge or attorney who does not comply with his oath to the Constitution of the United States wars against it and engages an act or acts of treason,

Here the evidence confirms that the VSBDB in violation of their oath under the Constitution in furtherance of a criminal enterprise issued a *void* order. Here we have the Committee and the Federal Courts enforcing the *void* order to punish Rodriguez for acting pursuant to his federal rights under Treaty which under the Supremacy Clause is part of the Constitution (Add-a).

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid Constitutional provisions or valid statutes expressly depriving him of

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[3]Va. Code§ 18.2-481(5)(Add-f), makes it a crime for a court to do an act of treason, which is defined as, "**[r]esisting the execution of the laws under color of its authority.**" (Emphasis added). No provision of the Constitution of Virginia grant absolute immunity to the Judicial Branch. Instead VA. Code § 8.01-195.3(3) specifically provides for a cause of action against a judge for acts outside of jurisdiction or judicial capacity. Also, Article IV, § 9 of the Constitution of Virginia provides only for limited absolute immunity to the General Assembly, "except [for] treason, felony, or breach of the peace." Finally, pursuant to Article IV § 14(18) of the Constitution of Virginia the General Assembly is prohibited from enacting any special law granting any individual immunity from suit.

jurisdiction or judicial capacity, judicial immunity is lost. *Rankin v. Howard* 633 F.2d 844 (1980), *Den Zeller v. Rankin*, 101 S.Ct. 2020 (1981). Whenever a judge acts where he does not have jurisdiction to act, the judge is engaged in an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821). This includes if a judge does not fully comply with the Constitution and statute, then his orders are *void*, *In re Sawyer*, 124 U.S. 200 (1888), he is without jurisdiction, and he has engaged in an act or acts of treason.

ii. Judges and Attorneys Have No Judicial and Ministerial Immunity For Treason.

The benchmark for accountability of employees of the government can be found in *United States v. Lee*, 106 U.S. 196, 220 (1882), wherein the U.S. Supreme Court stated that,

> [n]o man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives. (Emphasis added).

More recently this Court held in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) that,

> when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States. [Emphasis supplied in original].

In total disregard of this holding, Judges and attorneys in the instant action have given themselves absolute judicial and *quasi*- judicial and ministerial immunity for acts of treason.

However, it is clear that neither Judges nor government attorneys have any judicial/ministerial immunity for treason, criminal acts, aiding, assisting, or conniving with others who perform a criminal act, or for violating their administrative/ministerial authority and oath of office to serve the people.[4]

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[4]The record of government malfeasance brings into focus this Court's rejection of the claim of DOJ which went beyond the "James Bond Defense of having a license to kill a target," to argue that a drunk government agent, driving recklessly while receiving sexual favors from a prostitute was immune from suit for acting "within his scope of employment." *Martinez, et al. v. Lamagno and DEA*, 515 U.S. 417 (1995)(Undersign counsel attorney for Martinez *et al.*).

iii. No Immunity For A Criminal Enterprise

In the instant action since 2003 to date no judges has reported the criminal activity by the obstruction of Rodriguez's parental rights in violation of 18 U.S.C. § 1204, or from 2003 the criminal conspiracy to issue *void* orders and undertake criminal acts in violation of 18 U.S.C. §§ 4, 241, 242, 1001, and 1513, to injure, punish, stigmatize Rodriguez for petitioning Congress and litigating to enforce my federal statutory rights as a parent. A judges or attorney of government who does not report criminal activities of other judges become accessory after the fact in the criminal activity, 18 U.S.C. § 3.

Thus, in the instant action Judge Feldman and the Special Panel are as guilty as the principles by violating 18 U.S.C. § 2.

In the instant action the evidence confirms a criminal conspiracy in violation of 18 U.S.C. § 4, § 242, § 242, § 535, § 1001, § 1204, § 1510, and § 1513 (Add-c and d), by the issuance and enforcement of VSBDB *void* orders to injure, punish and stigmatize Rodriguez and a conspiracy to obstruct justice. In this latter context the evidence confirms the making of false statements and concealment of material facts before Congress by the committing of perjury, subornation of perjury, and making false declarations are actionable pursuant to 18 U S.C. § 1001, *see United States v. Griffin*, 589 F.2d 200, 203, 204 (5th Cir.) (dicta), cert. denied, 444 U.S. 825 (1979); cf. *Smith v. United States*, 234 F.2d 385 (5th Cir. 1956) (submission of false affidavits of others violates omnibus clause). Also the perjury accompanied

by the on going conspiracy causes an omnibus clause offense to exist. In *United States v. Alo*, 439 F.2d 751 (2d Cir.), cert. denied, 404 U.S. 850 (1971).

Thus, both absolute and qualified immunity are lost with the evidence of criminal violations. *Turner v. Houseman, 2008 WL 647526,* 2008 U.S. App. LEXIS 5127, slip op. At 3 (10th Cir. (Okla.) March 10, 2008)(No.07-6108, unpublished).

Because judges exercise enormous power over people's property, liberty, and even life, self-exemption from liability and with life tenure federal judges would wield absolute power, which as the evidence in the instant record confirms will corrupt absolutely.

> Crime is contagious. If Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." *Olmstad v. United States,* 277 U.S. 438 (1928).

Thus, neither Judges nor Government attorneys are above the law. *See United States v. Isaacs*, 493 F. 2d 1124, 1143 (7th Cir. 1974). In our judicial system, few more serious threats to individual liberty can be imagined than a corrupt judge or judges acting in collusion outside of their judicial authority with the government attorneys to deprive a citizen of his rights.

Clothed with the power of the state, the responsibility to enforce the law, and authority to pass judgment on the most basic aspects of everyday life, the

criminal malfeasance evidenced in this action will continue unless stopped either by the courts or Congress or the people.

The problem for the Republic is that when judges and government officials act as common criminals, as in the instant case the entire judiciary and legal profession are justly held up to contempt.

II. THERE IS NO JUDICIAL AND MINISTERIAL IMMUNITY FROM ACCOUNTABILITY BECAUSE THE COMMITTEE ACTIONS AND THE VSBDB ORDERS ARE *VOID* AS OUTSIDE OF THEIR AUTHORITY AND IN FURTHERANCE OF A CRIMINAL CONSPIRACY WITH THE GOVERNMENT.

Under the "Privileges and Immunities" clause, the practice of law has been recognized as a "fundamental right." *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274 (1985). In *Schware v. Board of Bar Examiner*, 353 U.S. 232, 239 (1957), this Court stated that, "[a] State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravenes the Due Process or Equal Protection Clause of the Fourteenth Amendment."

Thus, the *Void* Order Doctrine is the benchmark which the lower federal courts had a duty to apply, because this Court held that an *invalid* and *void* order can be attacked in any proceeding where they come into issue. *Pennoyer v. Neff*, 95 US 714 (1877); and, *Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974)("a void

judgment is no judgment at all and is without legal effect") (Emphases added).

In enunciating the right to challenge a *void* judgment of one state in another state, this Court in *Pennoyer* held that a *void* judgment can be treated as contrary to the first principles of justice, and as an absolute nullity, because it was rendered without any jurisdiction and is not entitled to any respect, stating that,

> To give such proceedings any validity, **there must be a tribunal competent by its constitution--that is, by the law of its creation**--to pass upon the subject-matter of the suit. (Emphasis added). *Id.* at 733.

Consistent with this Court recently in *Nguyen v. United States*, 539 U.S. 69 (2003), reaffirm the holding that any decision of an improperly constituted judicial body must be vacated.

Similarly, the Supreme Court of Virginia has held that under the laws of Virginia, "[a] *void* judgment is one that has been . . . entered by a court that did not have jurisdiction over the subject matter or the parties." *Rook v. Rook*, 233 V. 92, 353 S.E2d 756, 758 (1987). Also, as explained in *Morrison v. Bestler,* 239 Va. 166, 167-170, 387 S.E.2d 753 (1990),

> The term jurisdiction embraces . . . subject matter jurisdiction, **which is the authority granted by the constitution or statute to adjudicate a class of cases or controversies**. . . .which cannot be

waived or conferred on the court by agreement of the parties. *Lucas v. Biller,* 204 Va. 309, 313, 130 S.E.2d 582, 585 (1963). **A defect in subject matter jurisdiction cannot be cured by reissuance of process, passage of time, or pleading amendment. While a court always has jurisdiction to determine whether it has subject matter jurisdiction, a judgment on the merits made without subject matter jurisdiction is null and void.** *Barnes v. American Fert. Co.,* 144 Va. 692, 705, 130 S.E. 902, 906 (1925). **Likewise, any subsequent proceeding based on such a defective judgment is *void* or a nullity.** *Ferry Co. v. Commonwealth,* 196 Va. 428, 432, 83 S.E.2d 782, 784 (1954). (Emphasis added).

a. ***The Virginia State Bar's order is void because it has no judicial authority and is not a Court.***

First, under Article VI § 1,[5] and § 7,[6] of the Constitution of Virginia, only the General Assembly has the authority to establish courts of records with judicial authority to revoke Rodriguez's license.

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[5] **Article VI, Section 1. Judicial power; jurisdiction.** — The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court **as the General Assembly may from time to time establish.** (Emphasis added).

[6] **Article VI, § 7. Selection . . . of judges.** The justice of the Supreme Court of shall be chosen by vote of the . . . General Assembly. . . . **The judge of all other courts of record shall be chosen by the . . . General Assembly** . . . . (Emphasis added).

Despite the above the VSBDB surreally contends that its jurisdictional authority for acting as a "court" with the power to revoke Rodriguez's license was based on Part 6, § IV, ¶ 13 (B)(5) of the Rules of the Supreme Court of Virginia.

However, this contention lacks any legal merit whatsoever because Article VI, Section 5, of the Constitution of Virginia, prohibits the Supreme Court from promulgating "rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly."

Thus, prior to the enactment of Va. Code § 54.1-3935, only courts of record have inherent judicial authority in a proper case to revoke a Virginia attorney's license who is practicing in that particular court. As explained by the Supreme Court of Appeals of Virginia in the controlling case of *Legal Club of Lynchburg v. A.H. Light*, 137 Va. 249, 119 S.E. 55 (1923),

> Independent of statutory authority, all courts of record in Virginia have inherent power in a proper case to suspend or annul the license of an attorney practicing in the particular court which pronounces the sentence of disbarment. **The power to go further and make suspension or revocation of license effective in all other court of the Commonwealth must be conferred by statute.** *Fisher's Case, 6 Leigh* (33 Va.) 619. (Emphases added).

Thus, the power of the courts to revoke an

attorney's license outside of that particular court is controlled by the General Assembly by it passing a statute, *see* When Has the Supreme Court of Appeals Original Jurisdiction of Disbarment Proceedings? R.H.C. Virginia Law Review, Vol. 10, No. 3 (Jan. 1924), pp. 246-248.

Second, based on the above the General Assembly enacted Va. Code § 54.1-3935 (Add-c), to extend a courts of record power beyond its original limits defined in *Fisher's Case*, 6 Leigh (33 Va.) 619.

However, under Va. Code § 54.1-3935, the General Assembly of Virginia never gave the Virginia State Bar as judicial authority, because it did not create it as a court. A reading that section in conjunction with Va. § 54.1-3910, confirms that the General Assembly created the Virginia State Bar as an administrative arm of the Supreme Court of Virginia with only limited administrative authority to aid a court of record upon its request by conducting an investigation and by prosecuting a complaint filed with the court.

This is because the Supreme Court of Virginia held in *Norfolk Bar Ass'n v. Drewry*, 161Va. 833 at 836, 172 S.E. 282 (1934), that,

> **[t]he power to discipline is judicial in nature.** *Opinion of the Justice* [(1932), 279 Mass. 607, 180 N.E. 725, 727, 81 A.L.R. 1059]; *Garrigas Case*, 93 Ind. 239, 242; *People v. Gorindar*, 350 Ill. 256, 182 N.E. 732; 6 C.J. 581; 2 R.C.L. 1104. Emphasis added.

Furthermore, the VSBDB argument is surreal pursuant to "the well recognize rule of construction that if a Rule of the Supreme Court [of Virginia] is at variance with a statutory enactment, the terms of the statute must prevail." 1996 Va. AG 23, at page 2. Thus the Supreme Court of Virginia has authority to neither delegate any judicial authority to the Virginia State Bar nor create a disciplinary system outside of that established by the General Assembly under Va. Code § 54.1-3935.

Consistent with these restrictions even the *Rules of the Virginia Supreme Court* gave no authority to Virginia State Bar in the first instant to unilaterally revoke a Virginia attorney's license.[7]

b. ***The Virginia State Bar order is void because it violated the prohibition against the bar taking action against an attorney for litigating to enforce his statutory rights.***

Pursuant to Article VI § 5 of the Constitution of Virginia and Va. Code §§ 54.1-3915, the Supreme Court of Virginia is prohibited from promulgating court rules which conflict with or limit an attorney's statutory rights. *See* 1996 Va. AG 23.

Consistent with this the *Rules of the Virginia Supreme Court* have not given authority to the Virginia

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[7]Part 6, § IV, ¶13(B)(5)(a) of the Rules of the Virginia Supreme Court, the Virginia State Bar has only jurisdiction to consider the, " (5) Revocation or Suspension in another jurisdiction. . . ."

State Bar to investigate a Complaint based on an attorney litigating to enforce his statutory rights.[8]

Thus, not only is the VSBDB's order *void*, but too, by participating in a business conspiracy to punish Rodriguez for litigating to enforce his statutory and Treaty rights have criminally violated 18 U.S.C. § 241, § 242, and § 1513 (Add-b, c, d, and e).

c. ***The Committee on has no authority under Rule 46 to conspire with the VSBDB to shelve for two years Rodriguez's application and then deny a him a hearing based on the VSBDB void order.***

After having received the fraudulent complaint by Mr. Eric Holder and Covington & Burling LLP., on behalf of DOJ, in violation of Rule 46(f) and the D.C. Ct of Appeals recent holding in *In re Anthony E. Ramos*, 860A.2d 843, 845 (D.C. 2004), the Committee conspired with the VSBDB to unlawfully shelved Rodriguez's waiver application filed on July 17, 2005, and deny him of his right to a hearing. Based on being a member of the Virginia State Bar in "good standing for five years prior to his application," Rodriguez should have been admitted within six months of filing of his application, i.e., December 2005.

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[8] Part 6, § IV, ¶ 13 (G)(1)(a)(1) and (5) of the Rules of the Virginia Supreme Court, the Virginia State Bar is prohibited from investigating, "(1)as a matter of law, the conduct questioned or alleged does not constitute Misconduct; . . . (5) the action alleged to be Misconduct is protected by superseding law."

Under D.C. Rule 46(f), and clearly pursuant to *In re Anthony E. Ramos*, 860A.2d 843, 845 (D.C. 2004), the Committee has no authority to conspire to shelve a waiver application, and then deny a hearing. The Committee is limited to either give notice to Rodriguez to withdraw his application, or upon his request they "**shall** provide for a public hearing."

Both the Fifth and Fourteenth Amendments to the Constitution require that Bar procedures be "fair on their faces," and not be administered "with an evil eye or a heavy hand," which would be violate the equal protection clause. *Yick Wo v. Hopkins*, 118 US 356 (1886).

In the instant action we do not even have a "court" acting within its jurisdiction. Instead we have the VSBDB and the Committee as administrative bodies unlawfully conspiring with the Government to violate Article VI, § 1, § 5, and § 7 of the Constitution of Virginia, VA Code § 54.1-3935, and D.C. Rule 46(c) and (f), so to deprive Rodriguez of his right to employment. Thus, we do not have the acts of either a judge or a judicial body--but trespassers upon judicial authority of the courts.

Therefore neither the Supreme Court of Virginia nor the Judge Feldman, nor the Designated Panel can cure or make valid the *void* orders of the VSBDB and Committee issued outside of their authority, because "**subsequent proceeding based on such a defective judgment is void or a nullity.**" *Ferry Co. v. Commonwealth,* 196 Va. 428, 432, 83 S.E.2d 782, 784 (1954). (Emphasis added).

This Court has stated that if a court is,

> without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.

Elliot v. Pearsall, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).

III. THERE IS NO JUDICIAL IMMUNITY UNDER THE VIRGINIA TORT CLAIMS ACT, FEDERAL TORT CLAIMS ACT, AND RICO

First, consistent with *Stump*, Va. Code § 8.01-195.3(3), only provides for immunity for judges or officers for acts within their judicial or ministerial capacity. Thus, based on the issuance and enforcement of the VSBDB *void* orders Rodriguez has a cause of action under the Virginia Tort Claims Act, Va. Code § 8.01-195.4 (Add-g).

In summary, based only on the issuance and enforcement of the VSBDB *void* orders, the criminal conspiracy to cover-up federal criminal acts, and continue to damage Rodriguez right to employment, his business and profession a cause of action has been plead to support the RICO action to go forward for damages against all Respondents.

Second, under the Federal Tort Claim Notices 26 U.S.C. § 2671 et seq. ("FTCA"), Congress expressly authorized suit and the defense of sovereign immunity has been waived. *United States v. Testan*, 424 U.S. 392, at 399 (1976); *See Radin v. United States*, 699 F.2d 681, at 685 (4th Cir. 1983). Thus, based on the filing of FTCA notices on June 14, 2005, and the instant tort action against the federal Respondents on May 23, 2007, the instant action was timely filed and not subject to summary dismissal by the lower court and the Special Panel falsifying facts (A-6, and A-27).

Although not providing for a jury trial the FTCA provide the means to sue the Federal Government, its agencies, and their employees. including members of the Judicial Branch, for damages as a result of a tort, by providing in 28 U.S.C. § 1346(b), that,

> . . . for injuries or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Thus, Congress when enacting the FTCA Congress, it did not provide any immunity for federal judges or government attorneys for either negligent or criminal acts.

Third, a civil cause of action was plead under

RICO, based on the on going criminal act to obstruct justice in violation of 18 U.S.C. § 1510, and § 1513.

The evidence is that all the Respondents, through Holder *et al.,* conspired with the VSBDB to issue *void* order, and the Committee's shelving and denying a hearing as mandated under DC Ct of Appeals Rule 46(f), and the denying of access to an impartial court to review and vacate said *void* orders in furtherance of an illegal enterprise.

Here the civil RICO claim is found under 18 U.S.C. §1962 ©, which makes it unlawful for a person to manipulate an enterprise for purposes of engaging in, concealing, or benefitting from a pattern of racketeering activity, as well as noted predicated upon the violation of the above federal criminal statutes, i.e., obstruction of justice.

Regardless of whether a RICO claim is predicated upon state or federal criminal violations (or a combination of both), the Respondents need not be criminally convicted before a Rodriguez can sue for treble damages under RICO. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 493 (1985).

The statute requires only that the criminal activities are "chargeable" or "indictable" under state or federal law, not that the Respondents have already been charged or indicted. 18 U.S.C. § 1961(1). Also this is particularly noteworthy and relevant given that the DOJ has refused repeatedly to act on the criminal complaints filed in 2005 and 2008 as mandated under 18 U.S.C. § 3771. *See In re Isidoro Rodriguez* S. Ct. No.

08-339, September 15, 2008, for a Writ of Mandamus to compel the federal courts and DOJ to comply with their oaths and duty to protect Rodriguez as a victim of on going federal crimes.

Here the evidence shows that the DOJ in collusion with the Judicial Branch, Holder et al., the *Legal Times*, the *Washington Post*, and John Does, have participated in a criminal conspiracy to obstruct with Rodriguez's parental rights under both the Treaty and Va. Code, conspired to obstruct justice, and conspired to cover-up their actions by suborning perjury, including Defendant Circuit Justice John G. Roberts making false statements to Congress, and the VSBDB issue and enforce *void* orders to injure, punish and stigmatize Rodriguez for fighting to protect his Son, family and rights as an attorney. Thus, a reasonable person sitting on a jury would conclude that there is no immunity from suit.

Because of the evidence of an on going criminal conspiracy and negligence by the collusion of DOJ and the lower federal courts his Court must reject summary dismissal of the RICO and tort actions (A-7, and A-8), based on any of the abstention doctrines, *res judicata, collateral estoppel,* as well as the bazar self serving abuse of *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 413 U.S. 462 (1983).

A right to a jury trial is mandated here because of the on going illegal enterprise by the government to deny access to an impartial court to avoid the vacating the VSBDB *void* order. The reality is that, "[c]rime is contagious. If Government becomes a lawbreaker, it

breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." *Olmstad v. United States,* 277 U.S. 438 (1928). Emphasis added.

If these federal judges can criminally conspire to disregard Rodriguez's fundamental rights of a citizen of the United States, obstruct parental rights under the Treaty and Va. UCCJEA; conspire to obstruct justice and cover-up an illegal enterprise; enforce *void* orders issued in retaliation for his litigating to enforce statutory rights, and deny access to a fair and impartial hearing and court, then they have unlimited power–and this in itself is a violation Rodriguez-father's right under the Fifth Amendment to the U.S. Constitution.

Therefore, when dealing with the accusation of judicial malfeasance evidence in this instant action, the rule must be that a jury trial be conducted to determine disputes of facts.

This is because "[t]here is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice ..." *U.S. vs. Jannottie,* 673 F.2d 578, 614 (3d Cir. 1982).[9]

Finally, the lower courts had a duty to construe the complaint liberally, accept Rodriguez's allegations

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[9]"Unlimited power is apt to corrupt the minds of those who possess it; and . . . that where law ends, tyranny begins." Lord Chatham (William Pitt) to the British House of Lords in January 1770.

as true, and draw all reasonable inferences in his favor. *See, e.g., Viqueria v. First Bank*, 140 F.3d 12, 16 (1st Cir. 1998); *see also* 5A Wright & Miller, *supra* note 46, § 1357, at 304.

Under these principles, after setting forth the nature of the criminal activity and identifying which statutory violations occurred, under RICO, Rodriguez needs only generally allege the existence of an enterprise and pattern of racketeering activity. *See Seville Indus. Mach. Corp. v. Southmost Mach. Corp.*, 742 F.2d 786, 789–90 (3d Cir. 1984) (holding that a RICO complaint satisfied the rules of pleading where it "identified the four entities it believed were the enterprises that had been marshaled against it").

Also F.R.C.P. Rule 8(a), which provides general rules of pleading, does not require detailed allegations of the enterprise or pattern of racketeering elements.[10] These are matters of proof that are properly addressed at summary judgment (after completion of the discovery process) or at trial. *See, e.g., Swistock v. Jones*, 884 F.2d 755, 758 (3d Cir. 1989) (reversing a dismissal for failure to allege pattern where plaintiffs

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[10]Rule 8(a) requires only three things: "(1) a short and plain statement of the grounds upon which the court's jurisdiction depends . . . , (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks." Fed. R. Civ. P. 8(a); *see also* 5 Wright & Miller, *supra* note 46 , § 1251.1, at 344 (stating that some cases "take the position that the basic Rule 8 standards should be applied to RICO cases and do not demand, other than in the context of Rule 9(b), that the elements of an action under the statute be pleaded with particularity").

would "have the opportunity to have their pattern allegations threshed out in discovery" and where "many of these issues [would] then be susceptible to resolution via summary judgment"); *Seville*, 742 F.2d at 790 (stating that "it is enough that a complaint put the defendant on notice of the claims against him" and that "[i]t is the function of discovery to fill in the details, and of trial to establish fully each element of the cause of action").

IV. THE DENIAL OF A JURY TRIAL IS A VIOLATION OF RIGHTS UNDER RICO AND THE RULE ENABLING ACT.

When America declared independence from England, the jury trial was regarded as one of the most important safeguards against arbitrary and oppressive governmental policies.

James Madison explained,

[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether one, a few, or many, whether hereditary, self-appointed, or elective, may justly be pronounced as the very *definition of tyranny*." in Federalist No. 47, Washington Square Press, page 103 (Emphasis added).

Likewise, Thomas Jefferson stated that even in the new democratic republic, the concentrating of power would be "*precisely the definition of despotic government*." Thomas Jefferson, Notes on the State of Virginia 196 (1787) (Emphasis added). Also Jefferson, considered the jury trial "the only anchor ever yet

imagined by man, by which a government can be held to the principles of its constitution."

During the contentious ratification debates, Alexander Hamilton pointed out that the right to jury trial was a subject that everyone could agree upon. In Federalist no. 83 Hamilton wrote, "The friends and adversaries of the opposed constitution], if they agree in nothing else, concur at least in the value they set upon the trial by jury; or if there is any difference between them it consists in this: the former regard it as a valuable safeguard to liberty; the latter represent it as the very palladium of free government."

Those firmly held convictions were based on the facts that colonial juries protected citizens from oppressive British laws. The jury was viewed as an indispensable "check" upon government abuse.

Chief Justice Marshall stated in *Marbury v Madison*, 1 Cranch 137, 163 (1803), that "[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws when he receives an injury."

Rodriguez has a right under the Seventh Amendment, the Rules Enabling Act, RICO and FRCP Rule 38(b) to a trial by jury of each and every issue triable by jury. This substantive right is "inviolate," and cannot modified by the he issuance of court rules. 28 U.S.C. § 2072 (Add-b).

Therefore the lower federal courts may not dismiss and grant summary affirmance in violation of

the right to a jury trial on the allegation of malfeasance of Respondents, unless it finds "beyond doubt that the plaintiff can prove no set of facts in support of his claim [that] would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45–46 (1957).[11]

V. VENUE IS PRESENT IN THE DISTRICT OF COLUMBIA BASED ON THE EVIDENCE THAT THE CRIMINAL ENTERPRISE WAS INITIATED THERE BY THE FEDERAL GOVERNMENT

The extensive evidence in the record of malfeasance by the Government, the Media, and Beltway lobbyist and attorneys confirms that venue is present in the District of Columbia, i.e. i.e. the DOJ, the Federal Courts in the District of Columbia, Judge Richard W. Roberts, and Justice John G. Roberts in his aiding and abetting the cover-up of malfeasance by government officials and judges by giving false statements to Congress at his confirmation hearing in August 2005, the filing by Holder *et al.* of fraudulent bar complaints to punish Rodriguez for petitioning Congress and litigating to enforce his federal rights as a parent, the acts of the Committee to conspire with the VSBDB to deprive Rodriguez of his right to employment.

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[11] This Court has confirmed that all doubts should be resolved in favor of jury trials in light of the strong federal policy favoring such trials and right under the Constitution. *Simler v. Conner*, 372 U.S. 221, 83 S.Ct. 609, 9 L.Ed2d 691.

The evidence confirms acts emanating from the District of Columbia to deny Rodriguez of his right to due process and equal protection of the laws by criminal acts outside of judicial/ministerial capacity and jurisdiction by the enforcing of *void* orders issued as part of an illegal enterprise in violation of separation of power.

Thus, what the Nazis understood, so too did our Founding Fathers, that is by the violation of the mandate of separation of power the clear lessons from history show that,

> Once certain checks and balances are destroyed, and once certain institutions have been intimidated, the pressure that can turn an open society into a closed one-turn into direct assaults; at that point events tend to occur very rapidly, and a point comes at which there is no easy turning back to the way it used to be. Naomi Wolf, The End of America: Letter of Warning To A Young Patriot, p. 14, Chelsea Green Publishing, Vermont, 2007.

For our Republic, this record of collusion of DOJ with the Federal Courts in the District of Columbia in a criminal conspiracy set off alarms of evidence of 3 of the 10 steps towards a *coup d'etat* and tyranny by the Federal Judicial Branch in collusion with the Federal Executive Branch:[12]

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[12]These 10 steps are:1. Invoke an external and internal threat; 2. Establish Secret Prisons; 3. Develop a Paramilitary Force; 5. Surveil Ordinary Citizen; 6. Infiltrate Citizens Group; 7.

1. **Surveil Ordinary Citizens** --Rodriguez has been illegally investigated by the U.S. Department of Justice, the Committee, and the VSBDB for litigating to enforce his parental rights under Va. UCCJEA and Treaty, and for petitioning Congress and the General Assembly of Virginia;

2. **Target Individuals**--Rodriguez was targeted for litigating against the unauthorized polices violating parental rights under the Treaty and Va. UCCJEA, i.e. *void* orders were issued to deprive him of his business, profession, and right to employment ["**If you can show citizens that they can lose their livelihood if they refuse to comply with the party line, it doesn't take long to "co-ordinate" and intimidated civil society.**" Wolf at p 113; and,

3. **Subvert the Rule of Law**-- by surreally disregarding *stare decisis* and the right to a trial by jury by self proclaiming absolute judicial/ministerial immunity for both negligent and criminal acts, the courts to date have disregarded their oath of office to enforce the law.

The irony is that by self-proclaim absolute judicial and ministerial acts, immunity is sought to be used by those who swore to defend and guard the Constitution. Now they unilaterally declare themselves privileged to violate the Rule of Law, Constitutions,

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Arbitrarily Detain and Release Citizens; 8. Target Key Individuals; 9Cast Criticism as "Espionage" and Dissent as "Treason;" and, 10. Subvert the Rule of Law, Wolf, at page 3.

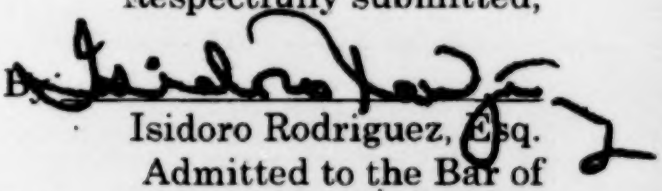
Federal Statutes and Va. Code with corrupt impunity.

CONCLUSION

We infrequently have an opportunity to consider the importance of separation of power as this case brings, but it has never been lost on either despots, or those who wish to undertake a ***coup d'etate***–which is the sudden overthrow of a Constitutional government by a small group of legal professionals in authority.

For the above reasons, the Petition must be granted.

Respectfully submitted,



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ADDENDUM TABLE OF CONTENTS

The Supremacy Clause of the U. S. Constitution .. a

Fifth Amendment of the U. S. Constitution ..... a

Ninth Amendment of the U. S. Constitution ..... a

Section 1 of the Fourteenth Amendment ..... a

28 U.S.C. § 2072 ..... b

18 U.S.C. § 4. Misprision of Felony ..... b

18 U.S.C. § 241 ..... b

18 U.S.C. § 242 c

18 U.S.C. § 1001 c

18 U.S.C. § 1204 ..... d

18 U.S.C. § 1346 ..... d

18 U.S.C. § 1513 ..... d

18 U.S.C. § 1961 ..... d

18 U.S.C. §3771. Crime victims' rights ..... e

Va. Code § 18.2-481 ..... f

Virginia Code § 18.2-499 ..... f

Va. Code § 8.01-195.3 ..... g

The Supremacy Clause of the United States Constitution, article VI, clause 2, provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every States shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Fifth Amendment of the United States Constitution provides:

> No person shall . . . be deprived of life, liberty, or property, without due process of law; . . . .

Ninth Amendment of the United States Constitution provides:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The Due Process Clause of Section 1 of the Fourteenth Amendment to the United States Constitution provides:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,

liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL CIVIL STATUTES VIOLATED

RULES ENABLING ACT--28 U.S.C. § 2072–Rules of procedure and evidence; power to prescribe

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and the courts of appeal.

(b) Such rules shall not abridge, enlarge, or modify any substantive right. . . .

FEDERAL CRIMINAL STATUTES VIOLATED

18 U.S.C. § 4. Misprision of Felony--Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years or both.

18 U.S.C. § 241 - Conspiracy against rights, states in relevant part, "[i]f two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State . . . in the free exercise or

enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; . . . They shall be fined under this title or imprisoned not more than ten years, or both . . . .

18 U.S.C. § 242 - Deprivation of rights under color of law, states in relevant part that, "[w]hoever, under color of any law, .statute, ordinance, regulation, or custom, willfully subjects any person in any State . . . to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, . . ., shall be fined under this title or imprisoned not more than one year, or both . . .

18 U.S.C. § 1001. Statements or entries generally

(a) Except as otherwise provided in this section whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-

(1) falsifies, conceals, or covers up by any trick, scheme, or devise a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in

section 2331), imprisoned not more than 8 years, or both. See: U.S. code 1001 for further information.

18 U.S.C. § 1204 - International parental kidnapping.--(a) Whoever. . . retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

18 U.S.C. § 1346 - Definition of "scheme or artifice to defraud".-- For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

18 U.S.C. § 1513. Retaliating against a witness, victim, or an informant, states in relevant part, "(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

UNITED STATES CODE TITLE 18 - CRIMES AND CRIMINAL PROCEDURE PART I - CRIMES CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

18 U.S.C. § 1961 - Definitions. As used in this chapter -

(1) "racketeering activity" means . . .; (B)

any act which is indictable under any of the following provisions of title 18, United States Code: . . ., section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), ...

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity; . . . .

18 U.S.C. §3771. Crime victims' rights

(a) Rights of Crime Victims.— A crime victim has the following rights:

(1) The right to be reasonably protected from the accused.
(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
(5) The reasonable right to confer with the attorney for the Government in the case.
(6) The right to full and timely restitution as provided in law.
(7) The right to proceedings free from unreasonable delay.
(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

VIRGINIA CRIMINAL STATUTES VIOLATED

Va. Code § 18.2-481. Treason defined; how proved and punished. — Treason shall consist only in:

. . . . (5) Resisting the execution of the laws under color of its authority.

Virginia Code § 18.2-499. Combination to injure others in their reputation, trade, business or profession: right of employees

(a) Any two or more persons who shall combine, associate, agree, mutually undertake or concert together for the purpose of wilfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever, or for the purpose of wilfully and maliciously compelling another to do or perform any act against his will, or preventing or hindering another form doing or performing any lawful act, shall be jointly and severally guilty of a Class 3 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

VIRGINIA CIVIL CODE INVOLVED

Va. Code § 8.01-195.3. Commonwealth, transportation district or locality liable for damages in certain cases. — Subject to the provisions of this article, the Commonwealth shall be liable for claims for money only accruing on or after July 1, 1982, . . . on account of damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee while acting within the scope of his employment under circumstances where the Commonwealth or transportation district, if a private person, would be liable to the claimant for such damage, loss, injury or death. . . .

Notwithstanding any provision hereof, the individual immunity of judges, the Attorney General, attorneys for the Commonwealth, and other public officers, their agents and employees

from tort claims for damages is hereby preserved to the extent and degree that such persons presently are immunized. Any recovery based on the following claims are hereby excluded from the provisions of this article:

3. Any claim based upon an act or omission of any court of the Commonwealth, or any member thereof acting in his official capacity, or to the judicial functions of any agency subject to the provisions of this article.

4. Any claim based upon an act or omission of an officer, agent or employee of any agency of government in the execution of a lawful order of any court.

6. Any claim arising out of the institution or prosecution of any judicial or administrative proceeding, even if without probable cause.